

Remarks

In the non-final Office Action dated February 5, 2010, the following grounds of rejection are presented: claim 1 is objected to as to informalities; claim 12 is rejected under 35 U.S.C § 112, first paragraph as failing to comply with the written description requirement; claims 12-14 are rejected under 35 U.S.C § 112, second paragraph as being indefinite; claims 1-16 stand rejected under 35 U.S.C. § 102(e) over Brooks (U.S. Patent Pub. 2001/0039600). In the following discussion, Applicant does not acquiesce in any regard to averments in this Office Action (unless Applicant expressly indicates otherwise).

Applicant has amended claim 1 to correct a typographical error, and requests that the objection be removed.

Applicant respectfully traverses the § 102(e) rejection of claims 1-16 because the cited portions of the '600 reference do not correspond to aspects of the claimed invention. For example, Applicant is uncertain how the '600 reference discloses aspects of the claimed invention directed to data networking functions performed by a data networking engine being completely partitioned/decoupled from the other cable modem functions performed by a cable modem engine. The Examiner has repeatedly failed to identify elements of the '600 reference corresponding to these aspects as requested. In contrast, the Office Action make the conclusion statement that "the data networking engine and cable modem engines are represented in Figures 1 and 2 of the ['600] reference" (*see, e.g.*, p. 8 of the Office Action). However, Applicant is uncertain how any reasonable interpretation of these Figures can provide correspondence. For example, Figure 2 of the '600 reference discloses only two processors, each of which, therefore, must correspond to the claimed data-networking and cable-modem engines. However, the discussion of Figure 2 makes clear that the cable modem functions are performed by CMAC unit 224 (*see, e.g.*, paragraph 0042). Therefore, in order for the cable modem engine to contain a processor and perform the CMAC functions as claimed, the cited cable modem engine must include circuitry to connect the processors with the CMAC unit. Because available connecting circuitry would be shared with the other processor, Applicant is uncertain how the asserted cable modem engine and home networking engine can be completely

partitioned as claimed. Because the Office Action has not identified these claimed aspects in the '600 reference, a *prima facie* case has not been presented and Applicant requests that the rejection of claims 1-16 be withdrawn.

Applicant submits that the Examiner's failure to identify corresponding elements as requested in Applicant's response constitutes an incomplete answer under M.P.E.P. § 707.07 and, therefore, makes the finality of the Office Action improper. In order to comply with 35 U.S.C. § 132, sufficient detail must be provided by the Examiner regarding the alleged correspondence between the claimed invention and the cited reference to enable Applicant to adequately respond to the rejections. *See, also*, 37 CFR 1.104 ("The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.") and M.P.E.P. § 706.02(j), ("It is important for an Examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply."). Because the Examiner has repeatedly failed to identify specific elements of the '600 reference which provide correspondence (as requested in the previous response), Applicant submits that the Office Action is unresponsive to Applicant's arguments and Applicant requests the finality of the Office Action be withdrawn.

Applicant respectfully traverses the § 112(1) rejection of claim 12 because aspects of the claim directed to a RISC processor are fully supported by Applicant's specification in compliance with the written description requirement. As shown in Figure 1 and related discussion at paragraph 0028 of Applicant's published specification, "the functions of the cable modem and data networking are rationally distributed among three different processors: DOCSIS MAC processor 114 (ARM #2); DOCSIS controller 116 (ARM #1); and data networking engine 120 (ARM #3)." Applicant submits that ARM, as commonly used in the art, refers to the Advanced RISC Machine (ARM). ARM is a 32-bit reduced instruction set computer (RISC) instruction set architecture developed by ARM Holding. Applicant submits that word-for-word correspondence is not required by the M.P.E.P. or relevant law, and maintains that the figures, together with the aforementioned discussion in the specification, fully support the claim limitations. *See, e.g., Union Oil Co. of California v. Atlantic Richfield Co.*, 208 F.3d 989 (Fed. Cir. 2000), *cert. denied*, 69 U.S.L.W. 3165 (Feb. 20, 2001) (No. 00-249) (quoting *In re Gosteli*, 872

F.2d 1008, 1012, 10 U.S.P.Q.2d 1614, 1618 (Fed. Cir. 1989) ("The written description requirement does not require the applicant "to describe exactly the subject matter claimed, [instead] the description must clearly allow persons of ordinary skill in the art to recognize that [he or she] invented what is claimed. "). Accordingly the 112(1) rejection is improper and should be withdrawn.

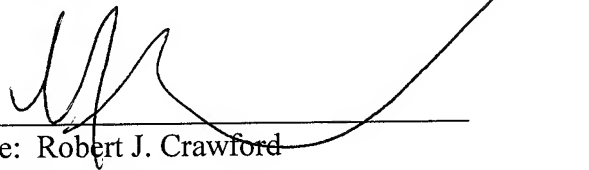
Applicant respectfully traverses the § 112(2) rejection of claims 12-14. While the Office Action erroneously suggests that "substantially" must be defined in the specification. Consistent with § 112(2), Applicant submits that, as used, the phrase "substantially all" would be understood by one of ordinary skill in the art in light of the specification and in the context of decoupling performance of data networking and home networking applications from the implementation of the MAC and VoIP functionality. *See, Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819 (Fed. Cir. 1988). Accordingly, the §112(2) rejection of claims 12-14 fails. Notwithstanding the above, Applicant has amended the claims for clarity and to better reflect the original intent of the claims. The §112(2) rejection is believe to no longer apply.

In view of the above, Applicant believes that each of the rejections is improper and should be withdrawn and that the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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